

### **Remarks/Arguments**

Applicants have received and carefully reviewed the Office Action of the Examiner mailed May 29, 2008 and the Advisory Action mailed November 12, 2008. Currently, claims 1-65 remain pending. Claims 1-65 have been rejected. Claims 1-27, 37-43, and 47-65 have been canceled. Claim 28 and 44-46 have been amended to clarify the relationships among the elements. No new matter was added. Favorable consideration of the following remarks is respectfully requested. A Request for Continued Examination is being filed with this paper.

### **Claim Rejections – 35 USC § 112**

In the Final Office Action of May 29, 2008, claims 1-13 and 28-65 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has canceled claims 1-27, 37-43, and 47-65 and amended claims 28 and 44-46 to further prosecution of this case. As such, this rejection is considered moot.

### **Claim Rejections – 35 USC § 103**

Claims 1-65 were rejected under 35 U.S.C. 103(a) as being unpatentable over Voda (U.S. Published Patent Application No. 2002/0103474). After careful review, Applicant must respectfully traverse this rejection.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (MPEP § 2143.03).

As discussed previously, nowhere does Voda appear to disclose a three dimensional steerable catheter having “a first configuration and a second configuration, which configurations differ in the angle between the first plane and the second plane, further wherein when the proximal shaft is rotated about the long axis and the abutment segment rests at least in part against an obstruction, the configuration of the three dimensional steerable catheter changes from the first configuration to the second configuration and the

distal tip follows the second plane as it rotates in response to rotation of the proximal shaft". Instead, Voda appears to disclose a preformed catheter in which the angles are relatively fixed and which depends upon that configuration to enter the ostium upon insertion in the proper orientation. The catheter of the pending claims provides a torsionally variable geometry which allows the configuration to be altered by rotation of the proximal end of the catheter so that the tip may be directed to ostia which differ in location from that assumed by the design of the catheter of Voda. As will be seen by a comparison, of Fig. 5 of Voda to Fig. 5 of the pending application, the abutment regions of the two configurations contact the aorta in different regions and the angle between the first and second ostium segments is reversed. Were the catheter of Voda to be rotated in the manner contemplated by the pending disclosure, it would appear that the distal tip would lead the second plane rather than following it. The change from the fixed geometry of Voda to the variable geometry of the pending application as proposed by the Examiner is believed to involve an impermissible change in the principle of operation of Voda. (MPEP 2144.01, VI.)

Accordingly, for at least these reasons, Applicants believe claim 28, to be allowable over Voda and request that the rejection be withdrawn.

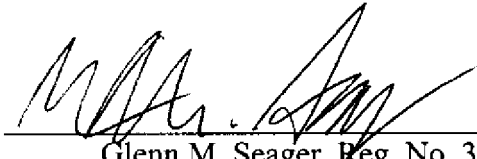
If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03) For at least this reason, Applicants respectfully request that the rejections of dependent claims 29-36 and 44-46 be withdrawn.

It is believed that the cancellation of claims 1-27 has rendered the non-statutory obviousness-type double patenting rejection of claims 14-17 and 19 moot.

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date: Nov 26, 2008

A handwritten signature in black ink, appearing to read 'Glenn M. Seager', written over a horizontal line.

Glenn M. Seager, Reg. No. 36,926  
CROMPTON, SEAGER & TUFTE, LLC  
1221 Nicollet Avenue, Suite 800  
Minneapolis, Minnesota 55403-2420  
Tel: (612) 677-9050